RESEARCH ANNEX · THE FOUR BRIEFS BEHIND THE EDITION

BRIEF II OF IV

Statehood Precedent, Article IV §3, and the Cherokee Nation

A Research File

THE ADMISSIONS CLAUSE · VERMONT TO WEST VIRGINIA · THE MCGIRT CORRECTION

RESEARCH BRIEF · VERBATIM EVIDENCE QUOTES · SHARED CITATION LEDGER

The constitutional mechanism and the consent rule,
Vermont to West Virginia, Sequoyah to D.C.,
with the McGirt correction applied.

THE REINVENTION OF THE CITY OF NEW YORK · MMXXVI

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Project: The Reinvention of the City of New York. Vermont, first new state, was carved from territory New York claimed; consent and $30,000 were the price.[11]

1. Constitutional mechanism — Article IV, §3, cl.1

The Admissions Clause provides: "New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress."[13] Congress alone admits states: "The Admissions Clause grants Congress the authority to admit new states but forbids the creation of new states from parts of existing states without the consent of the affected states,"[13] and any secession-of-territory proposal needs the parent legislature's consent.[13] The clause handed the four eastern claimant states — "Connecticut, Georgia, North Carolina, and Virginia" — a veto over dismemberment, hence Kentucky's and West Virginia's need for Virginia's consent, Maine's for Massachusetts'.[4] Every state enters "on an equal footing" with the original thirteen.[4]

2. The precedent set

— Vermont (1791). The Vermont Republic was "a de facto, unrecognized independent state in New England that existed from January 15, 1777, to March 4, 1791," born from contested New Hampshire, New York, and Quebec claims.[11] "On March 6, 1790, the legislature of New York consented to Vermont statehood," with Vermont paying New York $30,000 to settle claims.[11] Admitted March 4, 1791 — "the only state admitted without conditions of any kind."[11]

— Kentucky (1792). "Kentucky, admitted June 1, 1792, was set off from Virginia (previously its western District of Kentucky counties). The Virginia General Assembly adopted legislation on December 18, 1789, separating its" District and approving statehood.[4] "Previously a part of Virginia, Kentucky was admitted into the Union as the fifteenth state on June 1, 1792."[8]

— Maine (1820). "Maine, admitted March 15, 1820, was set off from Massachusetts (previously the District of Maine, its northern exclave). The Massachusetts General Court passed enabling legislation on June 19, 1819, consenting to the separation of the District of Maine from the rest of the state," which Maine voters approved.[4] "On March 15, 1820, under the Missouri Compromise, Maine was admitted to the Union as the 23rd state."[9]

— West Virginia (1863). The most irregular admission. After Virginia seceded, pro-Union delegates at Wheeling formed the Restored Government of Virginia, whose rump legislature consented to dismemberment: "In order to give West Virginia statehood a legal edifice, the consent of the Restored Government was of paramount importance," and loyalist voters "approved West Virginia statehood by a vote of 18,408 to 781!"[23] Lincoln, doubting its legality, concluded "the division of a state is dreaded as a precedent but a measure expedient by a war is no precedent for times of peace."[23] "It separated from Virginia and was one of two states (along with Nevada) admitted to the Union during the Civil War"; "Actual

statehood did not occur until June 20, 1863" — the 35th state.[5]

- Sequoyah (1905) → Oklahoma (1907). Indian Territory's bid, refused at Congress's door. "The Sequoyah Convention convened on August 21, 1905, in the Hinton Theater in Muskogee, Creek Nation,"[6] drafted a ~35,000-word constitution, but its statehood bills were among those "which Congress refused to consider."[6] Instead, "The Enabling Act of 1906, in its first part, empowered the people residing in Indian Territory and Oklahoma Territory to elect delegates to a state constitutional convention and subsequently to be admitted to the union as a single state," signed by Roosevelt June 16, 1906.[10] "On November 16, 1907, President Theodore Roosevelt issued Presidential Proclamation no. 780, establishing Oklahoma as the 46th state in the Union."[10]
- Modern practice. Alaska and Hawaii (1959) were the last admissions.[4] The House passed a D.C. admission bill in 2020 and 2021 — "The House passed the bill on April 22 with a vote of 216–208"[16] — but "On April 30, 2021, Democratic senator Joe Manchin came out against both H.R. 51 and S. 51, effectively dooming their passage."[16] Puerto Rico "has held seven referendums on the political status of the island: 1967 and 1993 ... 1998 ... 2012, 2017, 2020 and 2024, the latter four resulting in a statehood win," yet "these referendums are non-binding, as the power to grant statehood lies with the United States Congress."[14]

3. Cherokee Nation — government, dissolution, restoration

The Cherokee Nation was "an autonomous tribal government of the Cherokee people that existed from 1794 to 1907," seated at New Echota, then Tahlequah; Worcester v. Georgia (1832) recognized it as a "distinct political community" beyond state law.[3] After Cherokee leaders allied with the Confederacy, the Treaty of July 19, 1866 (14 Stat. 799) declared the 1861 Confederate treaty void, required emancipation, and gave Cherokee Freedmen "all the rights of native Cherokees."[17] "The Curtis Act of 1898 extended allotment to the Five Civilized Tribes, and the Five Civilized Tribes Act of April 26, 1906, curtailed the Cherokee tribal government in preparation for Oklahoma statehood on November 16, 1907."[3]

Dissolution did not end the Nation: "After the near dissolution of the tribal government of the Cherokee Nation in the 1900s and the death of William Charles Rogers in 1917, the Federal government began to appoint chiefs to the Cherokee Nation in 1919. The service time for each appointed chief was so brief that it became known as 'Chief for a Day'" — "the first being Andrew B. Cunningham, who served from November 8 to November 25" (1919).[12] A 1938 convention chose J. B. Milam as Principal Chief; "President Franklin D. Roosevelt confirmed the election in 1941. W. W. Keeler was appointed chief in 1949."[12] Under Nixon-era self-determination the Nation ratified a constitution June 26, 1976, and "In 1985 Wilma Mankiller was elected as the first female chief of the Cherokee Nation"[12] (she succeeded Ross Swimmer, winning her own election in 1987).[24]

4. Corrections to the source exhibit

C-1. "British-American Civil War (1861–1865)" — wrong. The 1861–1865 war is the American Civil War; the Cherokee sources confirm the naming: "After the American Civil War, in which most Cherokee leaders allied with the Confederacy, a new treaty required the Nation to emancipate its slaves and grant citizenship to Cherokee Freedmen."[3] Flag throughout.

C-2. Sharp v. Murphy → McGirt v. Oklahoma. The controlling case is McGirt v. Oklahoma, 591 U.S. 894, decided July 9, 2020 (5–4): "The 5–4 majority opinion was written by Justice Neil Gorsuch and joined by Justices Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor, and Elena Kagan," holding the Creek reservation never disestablished.[7] Sharp v. Murphy, "heard in the 2018–19 term on the same question but which was believed to be deadlocked," was decided the same day "in a per curiam decision following McGirt v. Oklahoma."[15] Cite McGirt as controlling, Sharp (per curiam, same day) as companion.

C-3. Cherokee continuity (contextual fix). The 1907 record is curtailment, not extinction: "In 2020 and 2021, federal and state courts affirmed that the Cherokee Nation's reservation—spanning 14 counties in northeastern Oklahoma—was never disestablished, restoring reservation status under the McGirt v. Oklahoma precedent."[12]

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